

### **REMARKS**

Review and reconsideration of the non-final Office Action mailed November 24, 2008 (hereinafter "Office Action") is respectfully requested in view of the above amendment and the following remarks. In the Office Action, claims 1-12 were rejected, with all claims being rejected under 35 U.S.C. §112, second paragraph. By this Amendment, claims 2-3 and 5-12 are amended, claims 13 and 14 are added, and claim 1 is cancelled. No new matter is added.

The amendments presented herein have been made solely to expedite prosecution of the instant application to allowance and should not be construed as an indication of Applicant's agreement with or acquiescence to the Examiner's position. Accordingly, Applicants expressly maintain the right to pursue broader subject matter through subsequent amendments, continuation or divisional applications, reexamination or reissue proceedings, and all other available means. The rejections and responses thereto are set forth fully below.

#### **Claims Rejections – 35 USC § 112, second paragraph**

In the Office Action, claims 1-12 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action asserts that claim 1 recites a method using an apparatus while reciting the elements of the apparatus and the steps of the method. The Office Action asserts that this is ambiguous because it fails to point out what is included or excluded by the claim language.

Although Applicants respectfully disagree, Applicants have amended the claims to better define the claims method. Accordingly, Applicants respectfully request that the rejection based on 35 U.S.C. §112, second paragraph, be withdrawn.

Applicants note that, pursuant to MPEP 707.07(g), piecemeal examination should be avoided as much as possible and each claim should be rejected on all valid grounds available. In the instant Office Action, no prior art rejections were asserted though eight separate references were cited as being "considered pertinent to applicant's disclosure." Accordingly, if the

Examiner decides another Office Action is necessary, Applicants respectfully request that the Office Action be made non-final.


**Conclusion**

As the amendments appear to overcome all pending rejections, the independent claims are believed to be allowable. In addition, the dependent claims are believed to be allowable due to their dependence on an allowable base claim and for further features recited therein. The application is believed to be in condition for immediate allowance. If any issues remain outstanding, Applicant invites the Examiner to call the undersigned (direct line 561-838-5229 x228) if it is believed that a telephone interview would expedite the prosecution of the application to an allowance.

Respectfully submitted,

**NOVAK DRUCE + QUIGG LLP**

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